

Internal Revenue Service

Department of the Treasury

District
Director

31 Hopkins Plaza, Baltimore, MD 21201

Person to Contact:

Telephone Number:

Refer Reply to:

Date:

APR 1 1992

CERTIFIED MAIL

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code.

The data submitted discloses you were incorporated on [REDACTED], under the laws of [REDACTED]. Your Articles of Incorporation stated, "The corporation is incorporated under the Nonprofit Corporation Law of 1988 for the following purpose or purposes: scientific and education."

Adequate provisions have not been made for the distribution of your assets in the event the corporation dissolved.

Your activities as stated in your Application 1023 are:

"An association of propagators, of wildlife and exotic animals across the United States for the express purpose to educate them through articles on raising animals, proper diets, nutrition, medical alerts, inoculations, veterinary news. We achieve through research and interaction with veterinarians and others who work daily with animals such as the [REDACTED] Organization."

"Keeping the people abreasted of changes in the laws concerning propagation and zoning. Directing and supporting them with avenues of relief along with changes in Legislation where deemed necessary."

Your Newsletter Vol. [REDACTED], No. [REDACTED] dated [REDACTED] stated, "As our membership grows, our strength will grow and we will be able to achieve the objectives we set forth in the flyers, enabling us to be a Force to be reckoned with now and in the future to protect the rights of all Propagators of exotics and wildlife, Game breeders and Dealers. We at [REDACTED], hope that we can keep the channels open for the breeding, buying and selling of our wildlife, along with our continued right to do so!"

[REDACTED]

Your income is from membership dues, advertisements, and contributions. Your application also stated, "No fundraising has been done, however, we plan to use selective mailings, newsletters and volunteers for solicitations."

Your organization is a membership one. Your letter dated [REDACTED] stated, "Our members join either through the flyers we mail out or by referral by other members. Members shall express a genuine interest in and concern for the propagation of Wildlife or exotics. Membership is \$[REDACTED] a year. Membership includes a membership card, newsletters, decal, a free classified ad in one newsletter along with personal interaction with members concerning any problems they may have that we may be able to assist them with."

Section 501(c)(3) of the Code provides for the exemption of organizations which are organized and operated exclusively for charitable, religious, and educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations states, "In order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt."

Section 1.501(c)(3)-1(c)1 of the Income Tax Regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which further one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations states an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. It is necessary that it is not organized or operated for the benefit of private interests.

Rev. Rul. 67-292, 1967-2 C.B. 184, states "An organization formed for the purpose of developing a sanctuary for wild birds and animals for the education of the public may be exempt from Federal income tax as an educational organization under section 501(c)(3) of the Internal Revenue Code of 1954.

Rev. Rul. 65-298, 1965-2 C.B. 163, concern a nonprofit organization, organized and operated on a nonmembership basis exclusively for the purpose of carrying on research as to diseases and other disorders of the human body and to develop scientific methods for diagnosis, prevention, and treatment thereof, and then to demonstrate the results of such research to other physicians and the public through means of seminars, qualifies as an organization described in section 501(c)(3).

[REDACTED]

The organization was organized on a nonmembership basis exclusively for the purpose of engaging in research, experiments, investigations, analyses and studies as to diseases, deformities, functional disorders, afflictions and other conditions, normal and abnormal, of any and all parts of the human body. Its purpose is also to develop scientific methods for the diagnosis, prevention, and treatment of such conditions and to disseminate the results to physicians and the public through seminars. These seminars and lectures are designated to lessen the time between the discovery of medical knowledge and its practical application. It is anticipated that medical research will later be undertaken. All results of this research (including any patents, copyrights, processes, or formulas resulting from such research) will be made available to the general public on a nondiscriminatory basis.

Rev. Rul. 71-506, 1971-2, C.B. 233, concern an engineering society formed to engage in scientific research in the areas of heating, ventilating, and air conditioning for the benefit of the general public qualifies for exemption under section 501(c)(3) of the Code.

In analyzing the organization's activities, the society maintains a library of books, periodicals, studies, and monographs relevant to its field. The library is open to members of the engineering profession, architects, scientists, teachers, and students of these and related subjects and other persons seriously interested in its contents. There is no charge for use of this facility. The society has no financial interest in the scientific information it develops. All such information is made freely available to the public. Research and studies have been conducted on a cost basis for universities and some government agencies.

The society does not engage in activities directed at or concerned with the protection or promotion of the professional practice or business interests of any of the professions represented by its membership.

Revenue Rulings 71-504, 1971-2, C.B. 531, and 71-505, 1971-2 C.B. 232, concern a city medical and bar association that were exempt as a professional organization that asked to be reclassified as a charitable and educational organization described in section 501(c)(3). In analyzing the organization's activities, the court stated that while some of the activities carried on by these entities were charitable and educational, several activities conducted by these organizations such as providing a patient referral service for members, establishing a legislative committee to communicate the association's attitudes to state and local government officials on issues germane to its members, were aimed at promoting the medical profession and were in the common interest of the members rather than for public purposes.

Since it has been held that the presence of a single noncharitable or non-educational purpose, if substantial in nature, will preclude exemption under section 501(c)(3), the above organizations were held not to qualify for exemption as charitable or educational organizations. See *Better Business Bureau v. U.S.* 279 (1945) Ct. D. 1650, C.B. 1945, 375.

[REDACTED]

Our review of your articles of incorporation indicates that your organization fails the organizational test required for exemption under section 501(c)(3), because your assets are not exclusively dedicated on dissolution to section 501(c)(3) purposes.

It appears that your organization is operated for a private rather than a public purpose, this is indicated in your Newsletter dated [REDACTED] which state, "You know there are organizations out there for everything. However, this is the first one I know of that is for all the Propagators, together. And in order for it to work, we've got to work together. As I've stated over and over, INTERACTION, between the members is One of the Most Important concepts of our organization. Together we will be a strong voice to be heard!

As our membership grows, our strength will grow and we will be able to achieve the objectives we set forth in the flyers, enabling us to be a force to be reckoned with now and in the future to protect the rights of all Propagators of exotics and wildlife, Game breeders and Dealers. We at [REDACTED] hope that we can keep the channels open for the breeding, buying and selling of our wildlife, along with our continued right to do so!"

It appears that your organization is not the type described in Revenue Rulings 67-292, or 65-298, which is clear as stated in your Newsletter dated [REDACTED], "... INTERACTION, between members is one of the most important concepts of our organization. Together we will be a strong voice to be heard."

An organization described in section 501(c)(3) of the Code must be operated exclusively for charitable, scientific, or educational purposes. Your application stated that your organization was organized for the express purpose of education. Section 1.501(c)(3)-1(d)(3) of the Income Tax Regulations defines the term "educational" as including the instruction of the public on subjects useful to the individual and beneficial to the community. It appears that your organization is not engaged in any educational activities, but solely for the benefit of your members as stated in your application.

The professional organization described in Rev. Rul. 71-506 carried on activities of developing scientific methods of research and disseminating the information to the public through seminars, furnishing classrooms and employing professors to teach courses for which university credits were given and carrying on research made freely available to the public through a library of books, periodicals, studies, and monographs relevant to its field. It is clear that your organization is neither carrying on the instruction or training of the individual; or instructing the public on subjects useful to the individual and beneficial to the community. Your application limits its benefits to members only.

[REDACTED]

It appears that your activities more nearly resemble those that are shown in Revenue Rulings 71-504 and 71-505. These organizations were professional organizations carrying on activities that were in the common interest of the members rather than for public purposes.

Since you are neither organized nor operated exclusively for purposes specified in section 501(c)(3), you are not exempt under section 501(c)(3) of the Code.

Contributions to your organization are not deductible under section 170 of the Code.

You are required to file federal income tax returns on Form 1120.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this, you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if your request, at any mutually convenient district office.

If we do not hear from you within 30 days of the date of this letter, this determination will become final. A copy of this letter will then be furnished to the appropriate State officials as provided by section 6104(c) of the Code.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted all administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

[REDACTED]
District Director

Enclosure: Publication 892

cc: State Attorney General ([REDACTED])